



GREENBLUM & BERNSTEIN, P.L.C.
Intellectual Property Causes
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FW

Mail Stop Amendment
 Attorney Docket No. P25114
Confirmation No. 7654

In re application of : Stephan RUPPERT et al.

Application No. : 10/830,000

Group Art Unit : 1617

Filed : April 23, 2004

Examiner : Yu, Gina C

For : ACTIVE INGREDIENT-CONTAINING COSMETIC CLEANSING
 EMULSIONS

Mail Stop Amendment
 Commissioner for Patents
 U.S. Patent and Trademark Office
 Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Sir:

Transmitted herewith is an **Election with Traverse** in the above-captioned application.

☐ Small Entity Status of this application under 37 C.F.R. 1.9 and 1.27 has been established by a previously filed statement.

☐ A verified statement to establish small entity status under 37 C.F.R. 1.9 and 1.27 is enclosed.

☐ A Request for Extension of Time.

☒ No additional fee is required.

The fee has been calculated as shown below:

Claims After Amendment	No. Claims Previously Paid For	Present Extra	Small Entity		Other Than A Small Entity	
			Rate	Fee	Rate	Fee
Total Claims: 39	*39	0	x 9=	\$	x 18=	\$0.00
Indep. Claims: 2	**3	0	x 44=	\$	x 88=	\$0.00
Multiple Dependent Claims Presented			+150=	\$	+300=	\$0.00
Extension Fees for ____ Month(s)				\$		\$0.00
			Total:	\$	Total:	\$0.00

* If less than 20, write 20

** If less than 3, write 3

☐ Please charge my Deposit Account No. 19-0089 in the amount of \$ ____.

☐ A check in the amount of \$ ____ to cover the filing/extension fee is included.

☒ The U.S. Patent and Trademark Office is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 19-0089.

☒ Any additional filing fees required under 37 C.F.R. 1.16.

☒ Any patent application processing fees under 37 C.F.R. 1.17, including any required extension of time fees in any concurrent or future reply requiring a petition for extension of time for its timely submission (37 C.F.R. 1.136(a)(3)).

Heribert F. Muensterer
 Reg. No. 50,417

Neil F. Greenblum
 Neil F. Greenblum
 Reg. No. 28,394

P25114.A05



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Stephan RUPPERT et al.

Confirmation No. 7654

Group Art Unit: 1617

Serial No. :10/830,000

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For : ACTIVE INGREDIENT-CONTAINING COSMETIC CLEANSING EMULSIONS

ELECTION WITH TRAVERSE

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Amendment
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

This is in response to the requirement for restriction under 35 U.S.C. § 121 mailed from the U.S. Patent and Trademark Office on January 19, 2007. Inasmuch as the one-month shortened statutory period for reply is set in the Office Action to expire on February 20, 2007 (February 19, 2007 being a Federal Holiday), this response is being filed by the initial due date for response. However, if any extension of time is necessary, this is an express request for any necessary extension of time and authorization to charge any required extension of time fee or any other fees which may be required to preserve the pendency of the present application to Deposit Account No. 19-0089.

RESTRICTION REQUIREMENT

The Examiner has required restriction under 35 U.S.C. 121 to one of the following inventions:

- I. Claims 13-49, drawn to compositions comprising one or more detergent surfactants having an HLB value of higher than 15, classified in class 510, subclass 119.
- II. Claim 50, drawn to a method of treating or prophylaxis of inflammatory skin conditions, classified in class 514, subclass 887.
- III. Claim 51, drawn to a method of protecting sensitive and dry skin, classified in class 514, subclass 861.

The Examiner also has requested that an election of one single disclosed species of detergent surfactant species having an HLB value of higher than 15 be made.

ELECTION

In order to be responsive to the requirement for restriction, Applicants elect, with traverse, the invention set forth in **claims 13-49** (the invention of **Group I** as identified in the Restriction Requirement) and **sodium lauryl ether sulfate** as the detergent surfactant species having an HLB value of higher than 15. Currently at least elected claims 13-17, 26, 28-40 and 44-49 read on the elected species.

TRAVERSE

Applicants respectfully submit that a restriction requirement is inappropriate in this case. Even if one were to assume, *arguendo*, that the inventions of Groups I to III are distinct, the requirement for restriction should be withdrawn because there is no serious burden.

In MPEP Chapter 800, the Office sets forth its policy by which examiners are guided in requiring restriction under 35 U.S.C. § 121. Section 803 states that “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

Applicants note that the inventions of all of Groups I to III identified in the Restriction Requirement relate to a cleansing emulsion as defined in claim 13. Accordingly, as a practical matter, the searches for inventions I to III should significantly overlap. For example, a search for the invention of Group I should cover many of the areas that are also relevant for the inventions of Groups II and III. Thus, the search burden would not be serious.

For the above reasons alone, the Restriction Requirement should be withdrawn, which action is respectfully requested.

Should there be any questions, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

P25114.A05

January 30, 2007
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Respectfully submitted,
Stephan RUPPERT et al.



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